

Garwood Broadcasting Company of Texas
Petition For Reconsideration
MB Docket No. 99-331, RM-9848
February 20, 2003

Exhibit 1

FCC Communications To Sandlin

1. Letter 8-12-92 Returning Sandlin Form 301
2. Construction permit on channel 273C1 dated May 12, 1993
3. Letter 1-12-95 Cancelling Construction Permit
For Failure to Build

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

12 AUG 1992

IN REPLY REFER TO:
1800B3-JDB

Margaret K. Sandlin
Sandlin Broadcasting Co., Inc.

Day City, TX 77404

In re: KMKF (FM), Bay City, TX
Sandlin Broadcasting Co., Inc.
BPH-9204071A

Dear Ms. Sandlin:

This letter is in reference to the above-captioned minor change application to change effective radiated power, antenna height, and class, pursuant to MM Docket No. 91-242.

An engineering study has revealed that your proposal is short-spaced by 6.8 kilometers to the licensed facility of first adjacent channel class A FM station KPCB, Rockport, Texas. The proposed site is 126.2 kilometers from the licensed facility of KPCB (FM), while the required spacing pursuant to 47 C.F.R. 47.207 is 133 kilometers. Therefore, your proposal is in violation of 47 C.F.R. § 73.207. You have recognized the violation of § 73.207 and have requested processing pursuant to the provisions of 47 C.F.R. § 73.215. However, your proposal is also short-spaced by 13.6 kilometers to KPCB's Construction Permit BPH-9203021G for Channel 27212 and by 9.3 kilometers to the allotment for Channel 272C2 in Rockport, Texas. Your engineering discussion did not request § 73.215 processing with respect to the Channel 272C2 allotment nor the Construction Permit BPH-9203021G.¹ Therefore, your proposal is in violation of 47 C.F.R. § 73.207 and will be returned.²

¹ Construction Permit BPH-9203021G was granted on August 11, 1992. Therefore, any future proposals must only protect that Construction Permit, and not the allotment coordinates.

² Our study reveals that your proposal would be acceptable under the provisions of 47 C.F.R. § 73.215. However, you would have to request waiver of the note to § 73.215 that restricts the amount of short-spacing to 8 kilometers. Waivers of this note are routinely granted for applicants who propose to upgrade at their currently licensed site.

ngly, in light of the above, Application BPH-9204071A is unacceptable
ing and IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R.
3566(a).

Sincerely,

Dennis Williams

Dennis Williams
Chief, FM Branch
Audio Services Division
~~Mass~~ Media Bureau



FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

SANDLIN BROADCASTING CO., INC.
P.O. BOX 789
BAY CITY, TX 77404

Authorizing Official

Dale E. Bickel

Dale E. Bickel
Supervisory Engineer, FM Branch
Audio Services Division
Mass Media Bureau

Grant Date: 10 JAN 1993

Call sign: KKKS

Permit File No.: BPH-9302101A

This permit expires 3:00 an.
local time 10 months after
grant date specified above

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if one station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 13.1610 and 13.1020 or the Commission's Rules.

Name of permittee:

SANDLIN BROADCASTING CO., INC.

Station Location:

TX-BAY CITY

Frequency (MHz): 102.5

Channel: 213

Class: C1

FCC MAIL SECTION

JAN 17 2 05 PM '93

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

January 12, 1993

IN REPLY REFER TO:

180083-JDB
RETURN RECEIPT REQUESTED
FEE PAID

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Sandlin Broadcasting Co., Inc.
P.O. Box 789
Bay City, TX 77404

In re: KMKS (FM), Bay City, TX
Sandlin Broadcasting Co., Inc.
BPH-9302101A

CERTIFIED MAIL

No.

46019

Dear Licensee:

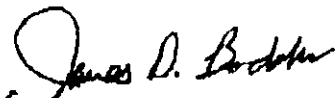
This letter refers to the above-captioned construction permit.

Section 73.3599 of the Commission's Rules (in pertinent part) provides that a construction permit shall be automatically forfeited if the station is not ready for operation within the time specified therein or within such time as the Commission may have allowed for construction.

Your construction permit BPH-9302101A was granted on May 12, 1993. Construction was to have been completed and program test operations commenced prior to November 12, 1994. To date, no FCC 302-FM license application has been filed to cover this construction permit, nor has an FCC Form 307 application requesting extension of time to construct been received.

Consequently, in accordance with Section 73.3599 of the Commission's Rules, construction permit BPH-9302101A IS HEREBY CANCELLED.¹ This action is taken pursuant to Section 0.283 of the Commission Rules.

Sincerely,


for Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

¹ This action has no effect on your licensed operation as authorized by BLH-900820KA.

Garwood Broadcasting Company of Texas
Petition For Reconsideration
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February 20, 2003

Exhibit 2

LaGrange Broadcasting Commitment to **Modify KTXM(FM)**,
Hallettsville, Texas, to **Accomodate** Operation of **KMKS(FM)**, Bay
City, Texas, on Channel 259C1 Under FCC Rule 73.215

February 19, 2003

Federal Communications Commission
Washington, D.C.

RE: Commitment to make Engineering Modifications
at **KTXM(FM)**, Hallettsville, Texas, to
Accomodate Operation of **KMKS(FM)**, Bay City,
Texas, an Channel 259C1

The undersigned Roy E. Henderson, President of LaGrange Broadcasting Corporation and also sole principal of Garwood Broaacaating Company of Texas, is aware of the representations made in the Petition for Reconsideration being filed by Garwood in **NM Docket No. 99-331**, and is in full agreement therewith, And specifically, on behalf of LaGrange Broadcaatlng Corporation, submits this commitment to make the necessary engineering changes in power and/or site location at **KTXM(FM)** in Hallettsville as necessary to accommodate the operation of station **KMKS(FM)** on channel 259C1 at its presont authorized site in accordance with **Section 73.215** of the Commission's Rules. I further verify that this Commitment is true and correct and is submitted to the Commission in good faith for its Consideration and reliance.

LAGRANGE BROADCASTING CORPORATION
Licensee of **KTXM(FM)**, Hallettsville, Texas

By: 
Roy E. Henderson, President

Garwood Broadcasting Company of Texas
Petition For Reconsideration
MB Docket No. 99-331, RM-9848
February 20, 2003

Exhibit 3

Sample of Request For Permission for Acceptance and
Consideration of Additional Pleading Under FCC Rule 1.415(d)
Included in Footnote As Part of Pleading Being Filed

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ORIGINAL

RECEIVED

JAN 20 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Cross Plains, Texas, ~~et al.~~))

MM Docket No. 98-198
RM- 9304

To: Chief, Allocations Branch
Policy and Rules Division
~~Mass~~ Media Bureau

STATEMENT FOR THE RECORD

1. WBAP/KSCS Operating, Ltd. ("**WBAP**") and Blue Bonnet ~~Radio~~, Inc. ("**BBRI**"), by its counsel, submit ~~this "Statement for the Record"~~ in order to clarify a statement made by WBAP/BBRI in its Counterproposal of December 21, 1998. At paragraph 4, pp 3-4, the following statement was made - "**WBAP/BBRI** hereby ~~states~~ that should the Commission substitute Channel **277C** for Channel 277 C2 and change the community of license from **Commerce** to Allen, WBAP will file an application at a **new** transmitter site to implement the change and will expeditiously ~~construct~~ the facility if authorized to do so." ~~This~~ statement is **true** and **was** intended to reflect the expectation that **WBAP** will ~~exercise~~ its option to purchase KEMM subject to FCC consent and thereby become the licensee ~~soon~~ after the Commission grants the Counterproposal. ~~As~~ the licensee, **WBAP** will ~~file~~ the application to relocate the transmitter site and increase the facilities to ~~serve~~ Allen. However, ~~this~~ statement did not cover the unlikely possibility that WBAP ~~does~~ not ~~become~~ the licensee. In that event as the licensee **BBRI** would file the application to ~~serve~~ Allen and ~~construct~~ the facility.¹

-
1. WBAP/BBRI recognizes that ~~this~~ matter was raised in Reply **Comments** submitted jointly by Gulfwest ~~Broadcasting~~ Company and Sonoma Media Corporation. WBAP/BBRI do not ~~seek~~ leave to file a response to that pleading ~~at~~ this time. However, WBAP/BBRI believe

(continued..)

0015207.01

No. of Copies rec'd 017
List ABCDE

2. The requirement of a continuing expression of interest is a matter which stems from Section 307(b) of the Communications Act of 1934, as amended wherein it states: "In considering applications for license, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several states and communities as to provide a fair, efficient and equitable distribution of radio service to each of the same." (Emphasis added). To implement this statutory provision, the Commission requires the filing of a continuing expression of interest in paragraph 2 of its Appendix to the Notice of Proposed Rule Making wherein it states: "[i]t (the proponent) should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly."

3. Certainly, there is no doubt that the "demand" for a station to serve Allen has been expressed as contemplated by Section 307(b) and the proponent, WBAP, has stated its present intention to apply and construct. BBRI has the same intention should it remain the licensee and that intention was expressed in note 2 of the Counterproposal wherein BBRI stated that in the unlikely event BBRI remains the licensee it will reimburse all the affected stations. That being the case the Commission should have no reason to doubt that under those circumstances, BBRI would also have the present intention to file an application and construct the facility. Accordingly, BBRI hereby slates for the record that should BBRI remain the licensee due to WBAP's failure to acquire KEMM, then BBRI will file an application to serve Allen and, if authorized, build the station promptly.

1. (...continued)

that a clarification is appropriate and, for the reasons to be provided, proper for consideration at this stage. To the extent the Commission determines that it must grant leave to accept the clarification of BBRI, WBAP/BBRI seek leave to file this statement. See Section 1.415(a) of the Commission's Rules.

4. The Commission should not view this statement as late filed and subject to its policy of strict scrutiny for Counterproposals. To do so would elevate form over substance where the Commission has the requisite expression of interest from the proponent WBAP and where BBRI has already indicated that BBRI would implement the action should WBAP not become the licensee. Thus the Commission has enough assurance from the proponents that it can safely proceed in evaluating the merits of the Counterproposal.

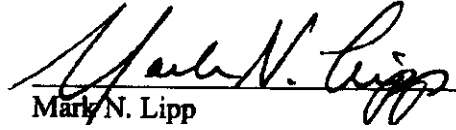
5. Nevertheless, WBAP/BBRI wishes to also point that, in considering this Statement for the Record, no other conflicting proposal will be adversely affected. The original petitioner, ALALATEX, has apparently failed to file its expression of interest in applying for Channel 24.5C3 at Cross Plains, Texas even though it was willing to provide a statement for WBAP/BBRI's filing that ALALATEX agreed to accept Channel 29.0C3 for consideration at Cross Plains instead. Nevertheless, an alternate channel is available at Cross Plains.

6. In addition the Counterproposal of Gulfwest Broadcasting Company and Sonoma Media Corporation contains numerous defects and should not be accepted. See "Joint Reply Comments" filed in part by WBAP/BBRI. Therefore, no other acceptable conflicting proposal would be prejudiced thereby. See Boalsburg, PA et. al. 7 FCC Rcd 7653 (1992); Scottsboro, Alabama, et. al. 6 FCC Rcd 6111 (1991).

7. Accordingly, to the extent the Commission believes it is necessary to have a clarification of an expression of interest from BBRI, BBRI hereby requests leave to submit this Statement for the Record.

Respectfully submitted,

WBAP/KSCS OPERATING, LTD.
BLUE BONNET RADIO, INC.



Mark N. Lipp
J. Thomas Nolan
Kathrine Calderazzi
Shook, ~~Hardy~~ & Bacon, LLP
1850 K Street, NW
Suite 900
Washington, DC 20004
(202) 452-1450

Their Counsel

January 20, 1999

Garwood Broadcasting Company of Texas
Petition For Reconsideration
MB Docket No. 99-331, RM-9848
February 20, 2003

Exhibit 4

GAROOD ENGINEERING EXHIBIT

Garwood Broadcasting Company of Texas

Petition for Reconsideration

MM Docket 99-331

February 2003

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F. W. Hannel, PE
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Garwood Broadcasting Company of Texas

Petition for Reconsideration

MM Docket 99-331

February 2003

ENGINEERING STATEMENT

This firm has been retained by Garwood Broadcasting Company of Texas, ("GBC"), to prepare this engineering statement in support of its Petition for Reconsideration in the above captioned proceeding.

SUMMARY

On January 20, 2003 the Commission issued its Report and Order in this proceeding denying the Garwood counterproposal which sought a number of changes in the FM Table of Allotments that would have provided substantial public interest benefits in favor of retaining the vacant allotment of FM Channel 273C1 at Bay City, Texas. The licensee of KMKS(FM), Bay City, Texas had opposed the assignment of FM Channel 259C2 at that community and had indicated that it intended to apply for the vacant FM Channel 273C1 at Bay City, Texas. On February 6, 2003 the licensee of KMKS(FM) filed an application for FM Channel 273C1, FCC File No. **BPH-20030206ACK**, under the provisions of Section 73.215 of the Commission's Rules at its present tower site located at N28-47-49, W96-09-20.¹ The center of radiation is 146 meters Above Mean Sea level, (142 meters height above average terrain), with a power of 100 kilowatts. This application is identical to the application filed by KMKS(FM) in response to the original assignment of FM Channel 273C1 to Bay City, Texas.²

¹ The Commission noted in its Order in this proceeding that there were discrepancies in the tower site coordinates for KMKS(FM) and that licensee attached a corrected FCC Form 854 to the Application for Construction Permit filed on February 6, 2003.

² See File No. BPH-930210IA.

CONFLICT RESOLUTION

This engineering statement will demonstrate that FM Channel 259C1 can be assigned to Bay City, Texas and that the pending application of Sandlin Broadcasting Company can be granted at the site specified in FCC Form 301, File No. **BPH-20030206ACK**, in full compliance with the Commission's Rules.

FM Channel 259C1 can be allotted to Bay City, Texas at reference coordinates N28-36-52, W95-57-47. This allotment site is located 41 kilometers south of Bay City, Texas, (US Atlas coordinates N28-58-57, W95-58-09 and this allotment site fully complies with the Commission's minimum mileage separation and city grade illumination requirements. Attached as Exhibit E-1 is an FM Channel Study which demonstrates compliance with the Commission's mileage separation requirements and a sample transmitter operating from the allotment site will fully comply with the Commission's city grade illumination requirements using both uniform earth and actual terrain analysis.

Attached as Exhibit E-2 is a channel study conducted from the site specified in the pending application of Radio Station **KMKS(FM)** for FM Channel 259C1. This channel study shows that at the site proposed in the **KMKS(FM)** application on **FM** Channel 273C1 is **short** spaced to 2 facilities if the assigned channel were changed to FM Channel 259C1. The **Hallettsville** licensee has filed a modification application, ARN-2003021QADS which would provide full protection to FM Channel 259C1 at the specified site. The other short spacing shown is toward Radio Station **KUST(FM)**, **Willis**, Texas. This facility at **Willis**, Texas operates on FM Channel 259A with full facilities for this class and the facilities proposed by Sandlin Broadcasting Company for Radio Station **KMKS(FM)** would fully protect this facility under the provisions of Section 73.215 of the Commission's Rules if the proposed channel were changed from FM Channel 273C1 to FM Channel 259C1 as is being proposed to remove all conflicts in this proceeding.

Attached as Exhibit E-3 is a contour protection, (Section 73.215), analysis conducted from the pending **KMKS(FM)** site on **FM Channel 259C1** toward **KTXM(FM)**, Hallettsville, Texas³. This exhibit shows that the Commission can grant the pending **KMKS(FM)** application at the site selected for operation on **FM Channel 273C1** with a simple channel change to **FM Channel 259C1**.

Attached as Exhibit E-4 is a contour protection analysis conducted from the pending **KMKS(FM)** site on **FM Channel 259C1** toward the facilities of Radio Station **KUST(FM)**, Willis, Texas. This exhibit shows that the Commission can grant the pending **KMKS(FM)** application with a simple change in channel from **FM Channel 273C1** to **FM Channel 259C1** and that **KMKS(FM)** operation on **FM Channel 259C1** fully protects the Willis, Texas facility under the provisions of Section 73.215 of the Commission's Rules.

CONCLUSION

Gatwood Broadcasting of Texas has shown that the Commission can adopt its proposal in full compliance with all of the Commission's Rules if **FM Channel 259C1** were assigned to Bay City, Texas. This change at Bay City, Texas would allow the counterproposal of Gatwood to be adopted in this proceeding, with all its public interest benefits, while simultaneously providing Radio Station **KMKS(FM)** a technically equivalent channel for its use as a Class C1 facility on **FM Channel 259C1**.

³ The Hallettsville licensee has agreed to reduce power/change site as is necessary to protect the operation of **KMKS(FM)** on **FM Channel 259C1** under the provisions of Section 73.215 of the Commission's Rules. See FCC File No. 20030219ADS.

CERTIFICATION

The undersigned, F. W. Hannel, certifies under penalty of perjury that the foregoing statements are true and correct to the best of his knowledge. My qualifications are a matter of record with the Commission.

Dated this 20th day of February 2002.

A handwritten signature in black ink, appearing to read "F. W. Hannel", written over a horizontal line.

F. W. Hannel. PE

F. W. Hannel & Associates
10733 East Butherus Drive
Scottsdale, AZ 85255
(480) 585-7475
Fax (815) 327-9559
Email fred@fwhannel.com

Garwood Broadcasting Company of Texas

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MM Docket 99-331

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Exhibit E-I

FM Channel Study
FM Channel 259C1
N28-36-52 W95-57-47
Bay City, Texas

State	City	Freq	Channel	ERP	Class	Status	Distance	Sep	Clr
TX	PALACIOS	99.7	259	0	C2	APP	17.98	224	-206
TX	PALACIOS	99.7	259	50000	ic2	LIC	17.98	224	-206
TX	BAY CITY	99.7	259	0	ic2	APP	27.52	224	-196.5
TX	HALLETTSVILLE	99.9	260	3400	A	LIC	133.37	133	0.4
	ROBSTOWN	99.9	260	0	C1	USE	183.57	177	6.6
TX	WILLIS	99.7	259	2550	A	CP MOD	207.59	200	7.6
TX	HOUSTON	99.1	256	0	C	USE	115.35	105	10.3
TX	HOUSTON	99.1	256	95000	C	LIC	115.35	105	10.3
TX	HOUSTON	100	262	0	C	USE	115.35	105	10.3
TX	HOUSZON	100	262	95000	C	LIC	115.35	105	10.3

All Distances in Kilometers

Garwood Broadcasting Company of Texas

Petition for Reconsideration

MM Docket 99-331

February 2003

Exhibit E-2

FM Channel Study

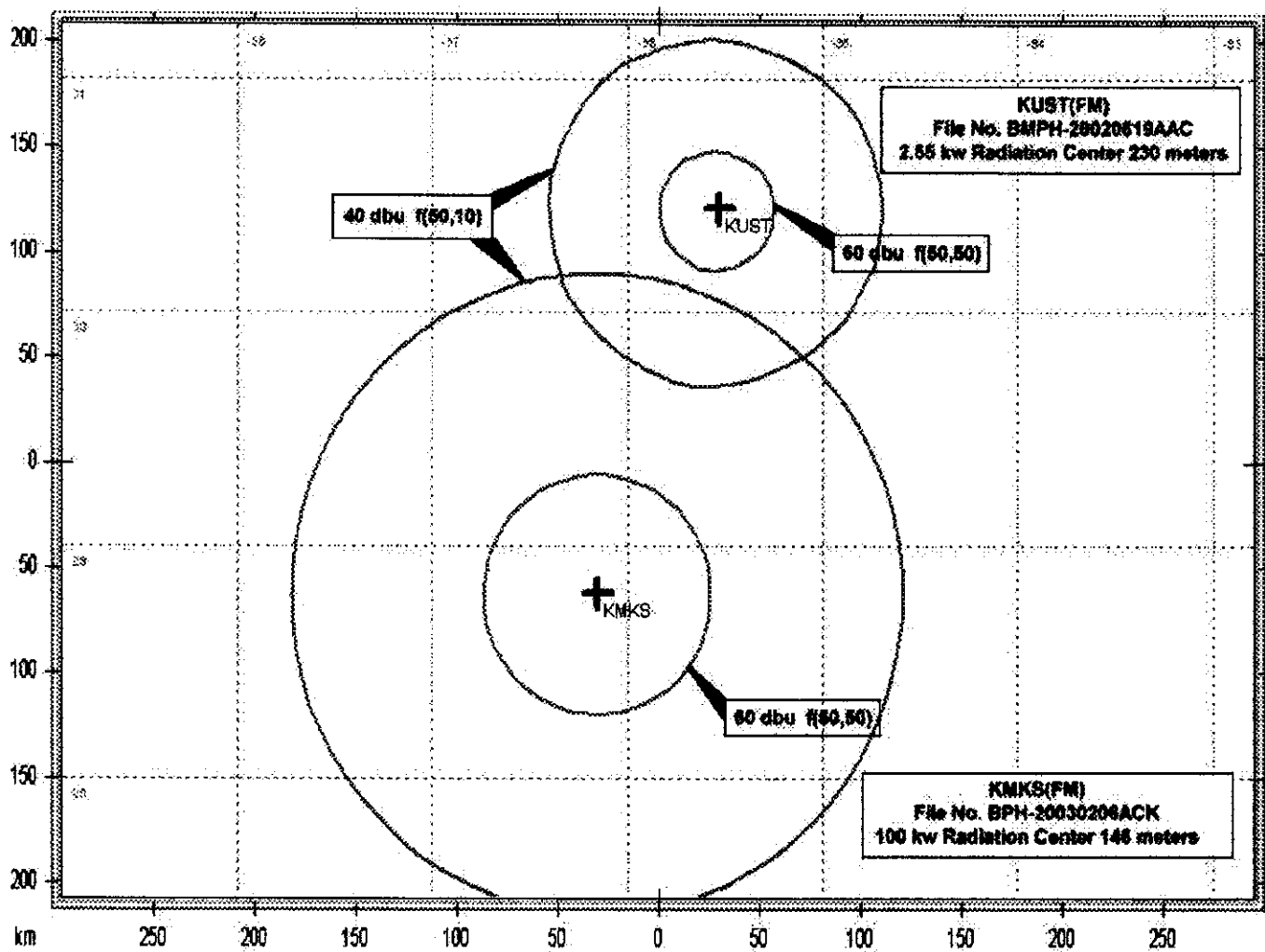
FM Channel 259C1

N28-47-50 W96-09-21

Bay City, Texas

State	City	Freq	Channel	ERP	Class	Status	Distance	Sep	Clz
	TX	BAI CITY	259	0	C2	APP	0.14	224	-223.9
KROY	TX	PALACIOS	259	50000	C2	LIC	9.69	224	-214.3
	TX	PALACIOS	259	0	C2	APP	9.69	224	-214.3
KROY	TX	PALACIOS	259	0	C2	USE	11.36	224	-212.6
KTXM	TX	HALLETTSVILLE	260	3400	A	LIC	105.73	133	-27.3
KUST	TX	WILLIS	259	2550	A	CP MOD	192.82	200	-7.2
KILT-FM	TX	HOUSTON	262	0	C	USE	106.76	105	1.8
KODA	TX	HOUSTON	256	95000	C	LIC	106.76	105	1.8
KILT-FM	TX	HOUSTON	262	95000	C	LIC	106.76	105	1.8
KODA	TX	HOUSTON	256	0	C	USE	106.76	105	1.8
KSAB	TX	ROBSTOWN	260	0	C1	USE	179.11	177	2.1
KISS-FM	TX	SAN ANTONIO	258	0	C	USE	212.1	209	3.1
KISS-FM	TX	SAN ANTONIO	258	100000	C	LIC	212.1	209	3.1

All Distances in Kilometers

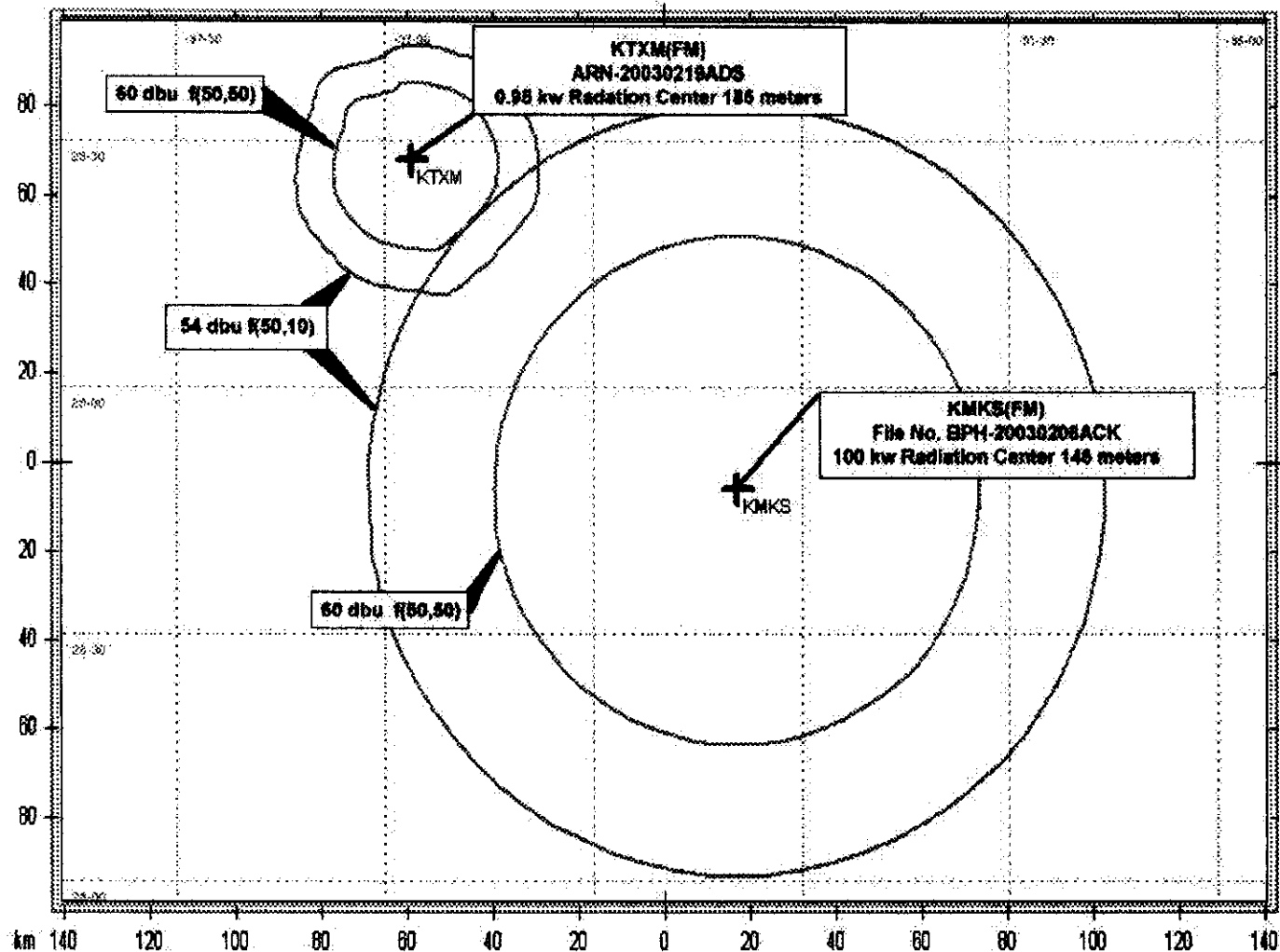


Garwood Broadcasting Company of Texas

Petition for Reconsideration
MM Docket 99-331
February 2003

Exhibit E-3

FM Contour Protection
73.215 Analysis for KMKS(FM) and KUST(FM)



Garwood Broadcasting Company of Texas

Petition for Reconsideration

MM Docket 99-331

February 2003

Exhibit E-4

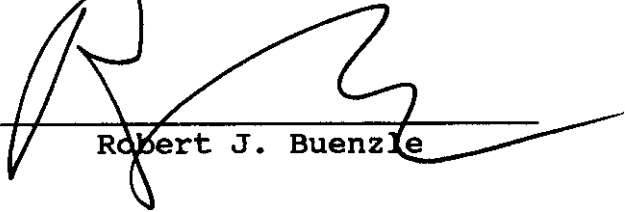
FM Contour Protection
 73.215 Analysis for KMKS(FM) and KTXM(FM)

CERTIFICATE OF S———

I, Robert J. Buenzle, do hereby certify that copies of the foregoing Petition for Reconsideration have been served by United States mail, postage prepaid this 20th day of February, 2003, upon the following:

John A. Karousos, Esq.
Assistant Chief, Audio Division
Office of Broadcast License Policy
Media Bureau
Federal Communications Commission
Portals 11, Room 3-A266
445 12th Street SW
Washington, D.C. 20554

Sandlin Broadcasting Co., Inc.
P.O. Box 789
Bay City, Texas 77404
Licensee of KMKR(FM)



Robert J. Buenzle